

UTILITIES DIVISION[199]

Adopted and Filed

Rule making related to inspections of natural gas pipelines

The Utilities Board hereby amends Chapter 10, “Intrastate Gas Pipelines and Underground Gas Storage,” and Chapter 19, “Service Supplied by Gas Utilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 476 and 479.

Purpose and Summary

Federal regulations require the Utilities Board, as an agent of the federal Pipeline and Hazardous Materials Safety Administration, to update its rules every two years so that the Board staff applies the current federal regulations during inspections of natural gas pipelines. This rule making updates the natural gas standards accordingly and updates other provisions in Chapters 10 and 19 that are outdated, inconsistent, or incompatible with statutes and other administrative rules.

On October 25, 2021, the Board issued an order adopting amendments. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2021-0008.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 30, 2021, as **ARC 5744C**. An oral presentation was held on August 19, 2021, at 10 a.m. in the Board Hearing Room, 1375 East Court Avenue, Des Moines, Iowa.

The Board conducted an oral presentation attended by the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice; Interstate Power and Light Company (IPL); MidAmerican Energy Company (MidAmerican); Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills); Iowa Association of Municipal Utilities; and Iowa Farm Bureau (Farm Bureau). No participant objected to or otherwise opposed any of the amendments.

During the written comment period, OCA submitted a comment expressing support for the amendments as published in the Notice of Intended Action and suggested the Board make a minor amendment to paragraph 10.2(5)“d” to which the Board agreed. Black Hills, IPL, and MidAmerican filed a joint comment in which they stated they supported certain amendments and did not oppose the remaining amendments. Farm Bureau filed a comment expressing its support for the changes to the definition of “affected person.”

The amendments adopted by the Board are identical to those published in the Notice; however, in response to public comments, the Board has adopted an additional amendment that was not contained in the Notice. Specifically, the Board adopted changes to paragraph 10.2(5)“d” in new Item 3 to ensure consistency with similar changes the Board recently adopted in paragraphs 11.4(5)“c” and 13.2(5)“d.”

Adoption of Rule Making

This rule making was adopted by the Board on October 25, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

No waiver provision is included in the amendments because the Board has a general waiver provision in rule 199—1.3(17A,474,476) that provides procedures for requesting a waiver of the rules in Chapters 10 and 19.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on December 22, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 10.1(3) as follows:

10.1(3) Definitions. Technical terms not defined in this chapter shall be as defined in the appropriate standard adopted in rule 199—10.12(479). For the administration and interpretation of this chapter, the following words and terms shall have the following meanings:

“Affected person” means any person with a ~~recorded~~ legal right or recorded interest in the property, including but not limited to a landowner, a contract purchaser of record, a ~~tenant-occupying person~~ possessing the property under a recorded lease, a record lienholder, and a record encumbrancer of the property. ~~The term also includes persons in possession of or residing on the property and persons with unrecorded interests in the property that have been identified through a good-faith effort of the pipeline company.~~

“Amendment of permit” means that changes to the pipeline permit or pipeline require the filing of a petition to amend an existing pipeline permit as described in rule 199—10.9(479).

“Approximate right angle” means within 5 degrees of a 90 degree angle.

“Board” means the utilities board within the utilities division of the department of commerce.

“CFR” means the Code of Federal Regulations, which contains the general administrative rules adopted by federal departments and agencies, in effect as of December 22, 2021, unless a separate effective date is identified in a specific rule.

“County inspector” means a professional engineer licensed under Iowa Code chapter 542B who is familiar with agricultural and environmental inspection requirements and has been employed by a county board of supervisors to do an on-site inspection of a proposed pipeline for compliance with 199—Chapter 9 and Iowa Code chapter 479.

“Multiple line crossing” means a point at which a proposed pipeline will either cross over or under an existing pipeline.

“Negotiating” means contact between a pipeline company and a person with authority to negotiate an easement that involves the location, damages, compensation, or other matter that is prohibited by Iowa Code section 479.5(5). Contact for purposes of obtaining addresses and other contact information from a landowner or tenant is not considered negotiation.

“Permit” means a new, amended, or renewal permit issued by the board.

“Person” means an individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

“*Pipeline*” means any pipe, pipes, or pipelines used for the intrastate transportation or transmission of any solid, liquid, or gaseous substance, except water.

“*Pipeline company*” means any person engaged in or organized for the purpose of owning, operating, or controlling pipelines for the intrastate transportation or transmission of any solid, liquid, or gaseous substance, except water.

“*Underground storage*” means storage of natural gas in a subsurface stratum or formation of the earth.

ITEM 2. Amend subrule 10.2(2) as follows:

10.2(2) Facilities. A pipeline company shall be responsible for all negotiations and compensation for a suitable facility to be used for each informational meeting, including but not limited to a building or facility which is in substantial compliance with any applicable requirements of the Americans with Disabilities Act Standards for Accessible Design, including both the Title III regulations at 28 CFR Part 36, Subpart D, and the 2004 Americans with Disabilities Act Accessibility Guidelines at 36 CFR Part 1191, Appendices B and D (~~as amended through April 1, 2020~~), where such a building or facility is reasonably available.

ITEM 3. Amend paragraph **10.2(5)“d”** as follows:

d. The pipeline company shall file prior to the informational meeting an affidavit that describes the good-faith effort the pipeline company undertook to locate the addresses of all affected persons. The affidavit shall be signed by a corporate officer or an attorney representing the pipeline company.

ITEM 4. Amend subrule 10.12(1) as follows:

10.12(1) All pipelines, underground storage facilities, and equipment shall be designed, constructed, operated, and maintained in accordance with the following standards:

- a.* 49 CFR Part 191, “Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,” ~~as amended through April 1, 2020.~~”
- b.* 49 CFR Part 192, “Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards,” ~~as amended through April 1, 2020.~~”
- c.* 49 CFR Part 199, “Drug and Alcohol Testing,” ~~as amended through April 1, 2020.~~”
- d.* ASME B31.8 - 2016, “Gas Transmission and Distribution Piping Systems.”
- e.* 199—Chapter 9, “Restoration of Agricultural Lands During and After Pipeline Construction.”
- f.* At railroad crossings, 199—42.7(476), “Engineering standards for pipelines.”

Conflicts between the standards established in paragraphs 10.12(1)“*a*” through “*f*” or between the requirements of rule 199—10.12(479) and other requirements which are shown to exist by appropriate written documentation filed with the board shall be resolved by the board.

ITEM 5. Adopt the following **new** definition of “CFR” in subrule **19.1(3)**:

“*CFR*” means the Code of Federal Regulations, which contains the general administrative rules adopted by federal departments and agencies, in effect as of December 22, 2021, unless a separate effective date is identified in a specific rule.

ITEM 6. Amend paragraph **19.2(3)“a”** as follows:

a. The tariff shall be filed electronically using the board’s electronic filing system. The filed tariff shall be printed, typewritten or otherwise capable of being reproduced on 8½- × 11-inch sheets of durable white paper so as to result in a clear and permanent record. The sheets of the tariff should be ruled or spaced to set off a border on the left side suitable for binding. In the case of utilities subject to regulation by any federal agency, the format of sheets of tariff as paper so customers may reproduce copies of the tariff. A tariff filed with the board may be the same format as is required by the a federal agency provided that the rules of the board as to title page; identity of superseding, replacing or revision sheets; identity of amending sheets; identity of the filing utility, issuing official, date of issue, effective date; and the words “Gas Tariff Filed with Board” shall apply in the modification of the federal agency format for the purposes of filing with this board. Pursuant to 199—subrule 14.5(5), tariffs filed electronically shall be formatted in accordance with this rule.

ITEM 7. Amend paragraph **19.2(5)“g”** as follows:

g. Reports to federal agencies. Copies of reports submitted to the U.S. Department of Transportation pursuant to 49 CFR Part 191, Part 192, or Part 199, ~~as amended through May 1, 2019,~~ shall be filed with the board no later than ten days following the submission. Utilities operating in other states shall provide to the board data for Iowa only.

ITEM 8. Amend subrule 19.5(2) as follows:

19.5(2) Standards incorporated by reference.

a. The design, construction, operation, and maintenance of gas systems and liquefied natural gas facilities shall be in accordance with the following standards where applicable:

(1) 49 CFR Part 191, “Transportation of Natural and Other Gas by Pipeline; Annual Reports, Incident Reports, and Safety-Related Condition Reports,” ~~as amended through May 1, 2019.”~~

(2) 49 CFR Part 192, “Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards,” ~~as amended through May 1, 2019.”~~

(3) 49 CFR Part 193, “Liquefied Natural Gas Facilities: Federal Safety Standards,” ~~as amended through May 1, 2019.”~~

(4) 49 CFR Part 199, “Drug and Alcohol Testing,” ~~as amended through May 1, 2019.”~~

(5) ASME B31.8 - 2016, “Gas Transmission and Distribution Piping Systems.”

(6) NFPA 59-2018, “Utility LP-Gas Plant Code.”

(7) At railroad crossings, rule 199—42.7(476), “Engineering standards for pipelines.”

b. The following publications are adopted as standards of accepted good practice for gas utilities:

(1) ANSI Z223.1/NFPA 54-2018, “National Fuel Gas Code.”

(2) NFPA 501A-2017, “Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities.”

ITEM 9. Amend rule **199—19.11(476)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section ~~476.6(15)~~ 476.6(11).

ITEM 10. Amend paragraph **19.14(3)“a”** as follows:

a. ~~An application fee of \$125 must be included with the application to cover the administrative costs of accepting and processing a filing. In addition, each applicant may be billed an hourly rate for actual time spent by the board reviewing the application. For actual time spent reviewing the application, the board will directly assess the applicant as set forth in 199—Chapter 17. Iowa Code section 476.87(3) requires the board to allocate the costs and expenses reasonably attributable to certification and dispute resolution to applicants and participants to the proceeding.~~

[Filed 10/26/21, effective 12/22/21]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/17/21.